

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 4 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE KUNDAN SINGH

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

-----  
SHRI NAVIN A. SARAIYA

Versus

COMMISSIONER OF INCOME TAX  
-----

CORAM : MR.JUSTICE R.K.ABICHANDANI and  
MR.JUSTICE KUNDAN SINGH

Date of decision: 28/04/98

ORAL JUDGEMENT

(Per R.K.Abichandani,J)

The Income-tax Appellate Tribunal has referred the following question which pertains to the assessment years 1988-89 and 1989-90 for the opinion of this Court under section 256 (1) of the Income-tax Act, 1961.

"Whether on the facts and in the circumstances of the case, the income by way of incentive bonus was taxable under the head "salaries" or "profits

and gains of business or profession" or "Income from other sources ?"

2. Identical question came up for our consideration in ITR No. 54 of 1993 and other cognate matters with which the entire group was argued and for the reasons given by us in our judgment dated 27.4.1998, we hold that the Tribunal was in error in holding that the entire incentive bonus earned by the assessee as development officer from LIC was part of his salary within the ambit of section 17 of the Act and no deduction on account of expenses was permissible and hold that the assessee was entitled to reimbursement of expenses to the extent actually incurred upto the maximum limit of 30% of the incentive bonus earned by the assessee. The question referred to us is accordingly answered in the negative against revenue and in favour of the assessee. The Reference stands disposed of accordingly with no order as to costs.

\*\*\*\*

\*\*\*darji